

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	CAUSE NO. 4:18-CR-368
	§	
SCOTT BREIMEISTER (02)	§	

**DEFENDANT BREIMEISTER’S OPPOSED MOTION TO ORDER THE
GOVERNMENT TO PAY THE COST OF THE APPEAL TRANSCRIPTS**

TO UNITED STATES DISTRICT JUDGE ALFRED H. BENNETT:

Scott Breimeister, defendant, files this opposed motion to order the Fraud Unit of the Criminal Division of the Department of Justice to pay the cost of the transcripts for the appeal, and would show as follows:

I.

The Court knows this story well. The Government’s misconduct caused the Court to declare a mistrial *sua sponte*. The Government admitted that it was responsible for the Court’s decision. The Court denied Breimeister’s motion to bar a retrial based on Double Jeopardy. He is now appealing that decision.

Breimeister must obtain transcripts so the district clerk can prepare the record for appeal. The five court reporters have estimated the total cost of those transcripts to be \$6,575.95. David Smith, the court reporter who took down the trial, told counsel that the defendants who are appealing cannot share that cost, as each defendant must purchase his transcripts separately.

The Court has scolded the Government verbally for wasting the “time and treasure” of the Court and the defendants. Pretty soon, there will not be any treasure remaining for the Government to waste. The Court keeps threatening the Government with sanctions for the wreckage that it caused. But to date, the Court has not done one thing to hold the Government accountable for its conduct. Now Breimeister must prosecute an interlocutory appeal to vindicate his constitutional right to not be twice placed in jeopardy. Why should he have to pay out of his pocket for the mistakes of DOJ’s trial team?

Breimeister requests that the Court order the Fraud Unit of the Criminal Division of the Department of Justice to pay the cost of the transcripts. Counsel has conferred with the lead prosecutor, Dan Griffin, and he opposes this request.

Breimeister respectfully requests that the Court grant this motion.

Respectfully submitted,

/s/ Josh Schaffer

Josh Schaffer

State Bar No. 24037439

Federal ID No. 33073

1021 Main, Suite 1440

Houston, Texas 77002

(713) 951-9555

(713) 951-9854 (facsimile)

josh@joshschafferlaw.com

Attorney for Defendant

SCOTT BREIMEISTER

CERTIFICATE OF CONFERENCE

I conferred with Dan Griffin, the prosecutor, on July 21, 2023, and he opposes this request.

/s/ Josh Schaffer
Josh Schaffer

CERTIFICATE OF SERVICE

I served a copy of this document on all parties by electronic filing on July 25, 2023.

/s/ Josh Schaffer
Josh Schaffer